



BEFORE THE PUBLIC UTILITIES COMMISSION OF THE  
STATE OF CALIFORNIA

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Order Instituting Rulemaking on the	)	
Commission's own motion into the programs,	)	Rulemaking 00-02-003
practices and policies related to implementation	)	(Filed February 3, 2000)
of the California Environmental Quality Act as it	)	
applies to jurisdictional telecommunications	)	
utilities.	)	

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**COMMENTS OF SOUTHERN CALIFORNIA EDISON COMPANY (U 6069-C) ON THE**  
**DRAFT DECISION OF COMMISSIONER BROWN**

MEGAN SCOTT-KAKURES  
THOMAS K. BRAUN

Attorneys for  
SOUTHERN CALIFORNIA EDISON COMPANY

2244 Walnut Grove Avenue  
Post Office Box 800  
Rosemead, California 91770  
Telephone: (626) 302-4413  
Facsimile: (626) 302-6693  
E-mail: [Thomas.K.Braun@SCE.com](mailto:Thomas.K.Braun@SCE.com)

Dated: **July 10, 2006**

**BEFORE THE PUBLIC UTILITIES COMMISSION OF THE  
STATE OF CALIFORNIA**

Order Instituting Rulemaking on the	)	
Commission's own motion into the programs,	)	Rulemaking 00-02003
practices and policies related to implementation	)	(Filed February 3, 2000)
of the California Environmental Quality Act as it	)	
applies to jurisdictional telecommunications	)	
utilities.	)	

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**COMMENTS OF SOUTHERN CALIFORNIA EDISON COMPANY (U 6096-C) ON THE  
DRAFT DECISION OF COMMISSIONER BROWN**

**I.**

**INTRODUCTION**

It is the policy of the State of California, as expressed in Public Utilities Code Section 767.7(a) (1), to "encourage the rapid and economic development of telecommunications services to all Californians." California's legislature stated this policy in the specific context of fostering the deployment of new landlines for telecommunications. Despite the growth of cellular communications and the potential of VOIP, wireline communication remains the mainstay of communication in California - - routinely relied upon by Californians regardless of geography or socioeconomic status.

If the Commission adopts Commissioner Brown's Draft Decision (the "DD"), it runs the substantial risk that it is taking a giant step backwards in terms of the "rapid and economic development of telecommunications services to all Californians." And it will have done so on the basis of speculation and conjecture instead of a reliable factual record. It will also have done so without any assessment of economic effects or consequences, as required by Public Utilities

Code Section 321.1. SCE urges the Commission to reject the “about-face” which the DD represents and to further consider the alternative proposals for CEQA compliance advanced by parties to this proceeding.

## II.

### **THERE IS NO RECORD TO SUPPORT THE DD’S KEY ASSUMPTION THAT ETP REVIEWS CAN BE COMPLETED IN A TIMELY WAY. LOGIC SUGGESTS THE CONTRARY IS TRUE.**

The DD concedes that the original Expedited Treatment Process (the “ETP”) as detailed in the April 26 Assigned Commissioner’s Ruling was “over-inclusive,” and that over-inclusiveness was a source of potential delay.<sup>1</sup> However, the DD asserts that by creating a few exceptions for repair and replacement activities, the ETP can “ensure” that “California’s telecommunications infrastructure is built... in a timely manner...”<sup>2</sup> The incomplete factual record in this proceeding does not support this key assertion. To the contrary, logic and the very limited factual record raise serious doubts that Commission staff can review and approve the current volume of construction projects in anything approaching “a timely manner.” A more likely scenario is that the review-and-approval process will come to a virtual standstill as Commission staff struggle with the large number of applications, the breadth and complexity of the information presented, and questions about how to apply vague and confusing exemptions to the rules. Such a result is simply not consistent with the mandate to “encourage the rapid and economic development” of telecommunications infrastructure.

Consider the facts presented *by just two* of the carriers in this proceeding. AT&T has stated that for 2005 alone, the ETP as it was originally proposed in the April 26 Assigned Commissioner’s Ruling would have “applied to almost 50,000 individual construction projects undertaken by AT&T throughout the State,” as well as an additional “28,000 maintenance digs...

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<sup>1</sup> DD, p. 10.

<sup>2</sup> *Id.*

to repair service.”<sup>3</sup> Likewise, Verizon reported that, “[f]or Verizon alone, *thousands* of new construction projects that do not require CEQA review by the Commission would potentially have to be submitted under the ETP *per month*.”<sup>4</sup>

Consider also the detailed process Commission staff must follow to complete the review-and-approved process “in a timely manner.” Before filing under the ETP, a carrier must assemble a large amount of data to meet the carrier’s burden of providing “documentation and factual evidence sufficient to support a finding” that the construction activity is CEQA-exempt.<sup>5</sup> This “rigorous self-assessment”<sup>6</sup> includes the results of research on the cultural historical, paleontologic and biological resources in the project setting, project, an analysis of current land use, and a detailed construction work plan.<sup>7</sup> The DD adds the further requirement that the carrier must identify “all expansions to its network undertaken in the same geographic region within the past two years, where geographic region is defined as the county in which the proposed construction will occur and any adjacent counties.”<sup>8</sup> This one new requirement may double or triple (at least) the size of each application because carriers may have to report hundreds of projects constituting “network expansions” in the same county and all adjacent counties.

The Energy Division staff will have to sift through this mountain of information to confirm that the project is CEQA-exempt. Staff must complete an “early bad news” review within seven days of receiving the carrier’s filing.<sup>9</sup> This initial review must determine whether the applicant has completed all of the checklists, work plans, and other details of the ETP review and determine whether there are “obvious reasons why the proposal is not appropriate” for ETP.<sup>10</sup>

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<sup>3</sup> *Comments of AT&T California (U 1001 C), On Assigned Commissioner’s Ruling Requesting Comments Dated April 26, 2006*, dated May 12, 2006, p. 10.

<sup>4</sup> *Comments of Verizon California Inc. (U 1002 C) In response to Assigned Commissioner’s Ruling Requesting Comments*, dated May 12, 2006, p. 1. (Italics in the original.)

<sup>5</sup> *Assigned Commissioner’s Ruling Requesting Comments*, (“Ruling”), dated April 26, 2006, p. 9.

<sup>6</sup> *Id.*, p. 7.

<sup>7</sup> *Id.*, pp. 8-9.

<sup>8</sup> *DD*, p. 9.

<sup>9</sup> *Ruling*, p. 9.

<sup>10</sup> *Id.*

Staff must then arrange for the proposal to be posted to the Commission's website and review all protests that are received from municipalities, property owners, environmental groups or other third parties.<sup>11</sup> The Energy Division is to complete its review and approve or deny the project within twenty-one days of the date when the applicant submits all required information about the project.<sup>12</sup> No one can seriously question that the review of each ETP application will be extremely labor-intensive for the Energy Division.

In the face of the substantial new burden placed on carriers and Energy Division staff, the DD presents no factual basis for its assurances that the ETP will allow the installation of new infrastructure to proceed in a "timely manner." In fact, there is absolutely no basis for this wishful assertion in the record at this time. No one knows what percentage of the thousands of construction projects undertaken by Verizon and AT&T each month are covered by the DD's new repair and maintenance exceptions and what percentage of projects must still be subject to ETP review.<sup>13</sup> No one knows how many projects undertaken by the hundreds of other carriers doing business in California will be subject to ETP review. No one knows how many ETP applications Energy Division staff can reasonably be expected to process in a day, a month or a year. In fact, the record does not even indicate how many Energy Division staff will be re-assigned from other Commission projects to the ETP project.

Until the factual record is complete, SCE urges the Commission not to consider adopting the ETP. To do so would be inconsistent with the legislative mandate to encourage the "rapid and economic development of telecommunications services to all Californians."

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<sup>11</sup> *Id.*, pp. 9-10.

<sup>12</sup> *Id.*

<sup>13</sup> To further complicate this analysis, the DD creates an exemption for the installation, repair and maintenance of equipment on or in existing structures only if the activity "results in no significant visual impact and is not adjacent to a particularly sensitive environment." (DD, p. 12.) The DD itself points out the vagueness of these requirements. *Id.* Thus, in an abundance of caution, carriers may submit ETP applications for projects that they believe to be exempt rather than face the possibility of sanctions.

### III.

#### **THE ECONOMIC IMPACTS OF IMPLEMENTING ETP SHOULD NOT BE IGNORED.**

Public Utilities' Code Section 321.1 directs the Commission to "assess the economic effects or consequences of its decisions as part of each ratemaking, rulemaking, or other proceeding." In this rulemaking, no attempt has been made to gauge the cumulative economic impacts of implementing ETP. Yet, it is clear that adding this new and burdensome layer of review for CEQA-exempt projects will be costly for the carriers that must comply with it, and for the Commission, which must provide all of the resources to administer it. Ultimately, some or all of the costs will be passed on to California consumers. Section 321.1 mandates that the Commission should assess these costs as part of this rulemaking. The DD's failure to do so is legal error, and by itself sufficient reason to reject the DD.

**IV.**

**CONCLUSION**

SCE requests that the Commission reject Commissioner Brown's DD and give further consideration to the alternative proposals made by the parties in this proceeding.

Respectfully submitted,

MEGAN SCOTT-KAKURES  
THOMAS K. BRAUN

/s/ Thomas K. Braun

---

By: Thomas K. Braun

Attorneys for  
SOUTHERN CALIFORNIA EDISON COMPANY

2244 Walnut Grove Avenue  
Post Office Box 800  
Rosemead, California 91770  
Telephone: (626) 302-4413  
Facsimile: (626) 302-6693  
E-mail: Thomas.K.Braun@SCE.com

July 10, 2006

### **CERTIFICATE OF SERVICE**

I hereby certify that, pursuant to the Commission's Rules of Practice and Procedure, I have this day served a true copy of COMMENTS OF SOUTHERN CALIFORNIA EDISON COMPANY (U 6069-C) ON THE DRAFT DECISION OF COMMISSIONER BROWN on all parties identified on the attached service list(s). Service was effected by one or more means indicated below:

Transmitting the copies via e-mail to all parties who have provided an e-mail address.  
First class mail will be used if electronic service cannot be effectuated.

Executed this **10th day of July, 2006**, at Rosemead, California.

/s/ Meraj Rizvi  
Meraj Rizvi  
Project Analyst  
SOUTHERN CALIFORNIA EDISON COMPANY

2244 Walnut Grove Avenue  
Post Office Box 800  
Rosemead, California 91770



**R.00-02-003**

Monday, July 10, 2006

ALLAN J. ABSHEZ, ESQ.  
IRELL & MANELLA  
1800 AVENUE OF THE STARS, STE. 900  
LOS ANGELES, CA 90067  
R.00-02-003

CASE ADMINISTRATION  
SOUTHERN CALIFORNIA EDISON  
COMPANY  
2244 WALNUT GROVE AVE., RM. 370  
ROSEMEAD, CA 91770  
R.00-02-003

Peter V. Allen  
CALIF PUBLIC UTILITIES COMMISSION  
505 VAN NESS AVENUE  
ROOM 5022  
SAN FRANCISCO, CA 94102-3214  
R.00-02-003

JEFFREY F. BECK  
ATTORNEY AT LAW  
COOPER, WHITE & COOPER ,L.L.P.  
201 CALIFORNIA ST., 17TH FLOOR  
SMALL LECs  
SAN FRANCISCO, CA 94111  
R.00-02-003

W. LEE BIDDLE  
ATTORNEY AT LAW  
FERRIS & BRITTON  
401 WEST A STREET, SUITE 1600  
SAN DIEGO, CA 92101  
R.00-02-003

E. GARTH BLACK  
ATTORNEY AT LAW  
COOPER, WHITE & COOPER, LLP  
201 CALIFORNIA STREET, 17TH FLOOR  
SAN FRANCISCO, CA 94111  
R.00-02-003

John Boccio  
CALIF PUBLIC UTILITIES COMMISSION  
505 VAN NESS AVENUE  
AREA 4-A  
SAN FRANCISCO, CA 94102-3214  
R.00-02-003

CHARLES E. BORN  
MANAGER-STATE GOVERNMENT AFFAIRS  
FRONTIER, A CITIZENS TELECOMM  
COMPANY  
PO BOX 340  
ELK GROVE, CA 95759  
R.00-02-003

EMERY G. BORSODI  
DIRECTYOR RATES AND REGULATORY  
RELATIONS  
SBC CALIFORNIA  
525 MARKET ST., RM. 1921  
SAN FRANCISCO, CA 94105  
R.00-02-003

STEPHEN P. BOWEN  
ATTORNEY AT LAW  
BOWEN LAW GROUP, L.L.P.  
235 MONTGOMERY STREET, SUITE 920  
SAN FRANCISCO, CA 94104  
R.00-02-003

THOMAS K. BRAUN  
SOUTHERN CALIFORNIA EDISON  
COMPANY  
2244 WALNUT GROVE AVENUE, ROOM 345  
ROSEMEAD, CA 91770  
R.00-02-003

LYNN T. CAREW  
ADMINISTRATIVE LAW JUDGE DIVISION  
CPUC  
505 VAN NESS AVENUE  
SAN FRANCISCO, CA 94102  
R.00-02-003

ELLEN CARROLL  
ENVIRONMENTAL COORDINATOR  
COUNTY OF SAN LUIS OBISPO  
COUNTY GOVERNMENT CENTER  
SAN LUIS OBISPO, CA 93408  
R.00-02-003

PETER A. CASCIATO  
ATTORNEY AT LAW  
A PROFESSIONAL CORPORATION  
355 BRYANT STREET, SUITE 410  
SAN FRANCISCO, CA 94107  
R.00-02-003

GREGG CASTRO  
SALINAN NATION CULTURAL  
PRESERVATION ASS  
5225 ROEDER RD.  
SAN JOSE, CA 95111-4064  
R.00-02-003

MARINA V. CAZORLA  
ENERGY AND OCEAN RESOURCES UNIT  
CALIFORNIA COASTAL COMMISSION  
45 FREMONT STREET, SUITE 2000  
SAN FRANCISCO, CA 94105-2219  
R.00-02-003

PATTY COOK  
ECOLOGY AND ENVIRONMENT, INC.  
350 SANSOME STREET, SUITE 300  
SAN FRANCISCO, CA 94105  
R.00-02-003

REGINA COSTA  
THE UTILITY REFORM NETWORK  
711 VAN NESS AVENUE, SUITE 350  
SAN FRANCISCO, CA 94102  
R.00-02-003

**R.00-02-003**

Monday, July 10, 2006

MICHAEL B. DAY  
ATTORNEY AT LAW  
GOODIN MACBRIDE SQUERI RITCHIE &  
DAY LLP  
505 SANSOME STREET, SUITE 900  
SAN FRANCISCO, CA 94111  
R.00-02-003

DAVID P. DISCHER  
SBC  
525 MARKET STREET, ROOM 2027  
SAN FRANCISCO, CA 94105  
R.00-02-003

ELAINE DUNCAN  
ATTORNEY AT LAW  
VERIZON CALIFORNIA INC.  
711 VAN NESS AVENUE, SUITE 300  
SAN FRANCISCO, CA 94102  
R.00-02-003

RICK DUVERNAY  
DEPUTY CITY ATTORNEY  
OFFICE OF THE SAN DIEGO CITY OF  
ATTORNEY  
1200 THIRD AVENUE, SUITE 1100  
SAN DIEGO, CA 92101  
R.00-02-003

CAMILLE ESTES  
STOVERLAW  
301 HOWARD STREET, SUITE 830  
SAN FRANCISCO, CA 94105-6605  
R.00-02-003

MARGARET FELTS  
PRESIDENT  
CALIFORNIA COMMUNICATIONS ASSN  
1851 HERITAGE LANE STE 255  
SACRAMENTO, CA 95815  
R.00-02-003

FASSIL FENIKILE  
GENERAL MGR STATE REGULATORY  
SBC CALIFORNIA  
140 NEW MONTGOMERY ST, RM 1723  
SAN FRANCISCO, CA 94105-3799  
R.00-02-003

JOSE FREEMAN  
SALINAN NATION CULTURAL  
PRESERVATION ASS  
15200 COUNTY ROAD 96B  
WOODLAND, CA 95695  
R.00-02-003

KATHRYN A. FUGERE  
ATTORNEY AT LAW  
STEEFEL, LEVITT & WEISS  
ONE EMBARCADERO CENTER, 30TH  
FLOOR  
SAN FRANCISCO, CA 94111  
R.00-02-003

DOUGLAS GARRETT  
COX CALIFORNIA TELCOM, LLC, DBA COX  
COMM  
2200 POWELL STREET, SUITE 1035  
EMERYVILLE, CA 94608-2618  
R.00-02-003

LISA S. GELB  
OFFICE OF THE CITY ATTORNEY  
1 DR. CARLTON B. GOODLETT PLACE  
SAN FRANCISCO, CA 94102-4682  
R.00-02-003

ROBERT J. GLOISTEIN  
ATTORNEY AT LAW  
ORRICK HERRINGTON & SUTCLIFFE, LLP  
405 HOWARD ST FL 11  
SAN FRANCISCO, CA 94105-2680  
R.00-02-003

BETSY STOVER GRANGER  
PACIFIC BELL WIRELESS  
4420 ROSEWOOD DRIVE, 4TH FLOOR  
PLEASANTON, CA 94588  
R.00-02-003

JOHN R. GUTIERREZ  
COMCAST PHONE OF CALIFORNIA, LLC  
12647 ALCOSTA BLVD., SUITE 200  
SAN RAMON, CA 94583  
R.00-02-003

JOSE GUZMAN  
ATTORNEY AT LAW  
NOSSAMAN, GUTHNER, KNOX & ELLIOTT,  
LLP  
50 CALIFORNIA STREET, 34TH FLOOR  
SAN FRANCISCO, CA 94111-4799  
R.00-02-003

Frederick Harris  
CALIF PUBLIC UTILITIES COMMISSION  
505 VAN NESS AVENUE  
ROOM 5002  
SAN FRANCISCO, CA 94102-3214  
R.00-02-003

MARCEL HAWIGER  
ATTORNEY AT LAW  
THE UTILITY REFORM NETWORK  
711 VAN NESS AVENUE, SUITE 350  
SAN FRANCISCO, CA 94102  
R.00-02-003

JENNIFER HERNANDEZ  
HOLLAND & KNIGHT LLP  
50 CALIFORNIA STREET, SUITE 2800  
SAN FRANCISCO, CA 94111  
R.00-02-003

**R.00-02-003**

Monday, July 10, 2006

KRISTIN L. JACOBSON  
ASSISTANT COUNSEL - WEST REGION  
NEXTEL OF CALIFORNIA, INC.  
1255 TREAT BLVD., STE. 800  
WALNUT CREEK, CA 94597  
R.00-02-003

STEPHEN H. KUKTA  
COUNSEL  
SPRINT NEXTEL  
201 MISSION STREET SUITE 1400  
SAN FRANCISCO, CA 94105  
R.00-02-003

LOUISA LAM  
AT&T COMMUNICATIONS OF CALIFORNIA,  
INC  
525 MARKET ST. 18TH FLOOR 31  
SAN FRANCISCO, CA 94105  
R.00-02-003

Diana L. Lee  
CALIF PUBLIC UTILITIES COMMISSION  
505 VAN NESS AVENUE  
ROOM 4300  
SAN FRANCISCO, CA 94102-3214  
R.00-02-003

SARAH LEEPER  
ATTORNEY AT LAW  
STEEFEL, LEVITT & WEISS  
ONE EMBARCADERO CENTER, 30TH  
FLOOR  
SAN FRANCISCO, CA 94111  
R.00-02-003

LESLA LEHTONEN  
STAFF ATTORNEY  
CALIFORNIA CABLE TELEVISION ASSN.  
360 22ND STREET, NO. 750  
OAKLAND, CA 94612  
R.00-02-003

RAISSA S. LERNER  
DEPUTY ATTORNEY GENERAL  
DEPARTMENT OF JUSTICE  
1515 CLAY STREET  
OAKLAND, CA 94612-1413  
R.00-02-003

RICHARD H. LEVIN  
3554 ROUND BARN BOULEVARD, SUITE  
303  
SANTA ROSA, CA 95403  
R.00-02-003

ERICH LICHTBLAU  
ORRICK HERRINGTON & SUTCLIFFE, LLP  
405 HOWARD STREET  
SAN FRANCISCO, CA 94105  
R.00-02-003

MARK LYONS  
TELIGENT SERVICES  
SIMPSON PARTNERS LLP  
TWO EMBARCADERO CENTER SUITE 1800  
SAN FRANCISCO, CA 94111  
R.00-02-003

JOHN A. MAIER  
ATTORNEY  
CALIFORNIA INDIAN LEGAL SERVICES  
510 16TH STREET, SUITE 301  
OAKLAND, CA 94612  
R.00-02-003

DAVID J. MARCHANT  
ATTORNEY AT LAW  
DAVIS WRIGHT TREMAINE LLP  
ONE EMBARCADERO CENTER, STE. 600  
SAN FRANCISCO, CA 94111-3834  
R.00-02-003

LARRY MYERS  
EXECUTIVE SECRETARY  
NATIVE AMERICAN HERITAGE  
COMMISSION  
915 CAPITOL MALL, ROOM 364  
SACRAMENTO, CA 95814  
R.00-02-003

Pamela Nataloni  
CALIF PUBLIC UTILITIES COMMISSION  
505 VAN NESS AVENUE  
ROOM 4300  
SAN FRANCISCO, CA 94102-3214  
R.00-02-003

AGNES NG  
AT&T COMMUNICATION OF CALIFORNIA  
INC.  
525 MARKET ST 20TH FLOOR 4  
SAN FRANCISCO, CA 94105  
R.00-02-003

ESTHER NORTHRUP  
COX CALIFORNIA TELCOM  
5159 FEDERAL BLVD.  
SAN DIEGO, CA 92105  
R.00-02-003

EDWARD W. O'NEILL  
ATTORNEY AT LAW  
DAVIS WRIGHT TREMAINE LLP  
ONE EMBARCADERO CENTER, SUITE 600  
SAN FRANCISCO, CA 94111-3834  
R.00-02-003

LORI L. ORTENSTONE  
SENIOR COUNSEL  
PACIFIC TELESIS GROUP  
101 WEST BROADWAY, SUITE 1300  
SAN DIEGO, CA 92101  
R.00-02-003

**R.00-02-003**

Monday, July 10, 2006

LORI D. PANZINO  
COUNTY OF SAN BERNARDINO  
157 WEST FIFTH STREET, 2ND FLOOR  
SAN BERNARDINO, CA 92415-0450  
R.00-02-003

CYNTHIA PARK  
KRONICK, MOSKOVITZ, TIEDEMANN &  
GIRARD  
400 CAPITOL MALL, 27TH FLOOR  
SACRAMENTO, CA 95814  
R.00-02-003

JEFFREY M. PFAFF  
SPRINT PCS  
6450 SPRINT PARKWAY  
OVERLAND PARK, KS 66251-6100  
R.00-02-003

HARRISON M. POLLAK  
DEPUTY ATTORNEY GENERAL  
OFFICE OF THE ATTORNEY GENERAL  
PO BOX 70550  
OAKLAND, CA 94612-0550  
R.00-02-003

STEPHEN G. PUCCINI  
CALIFORNIA DEPARTMENT OF FISH AND  
GAME  
1416 NINTH STREET, 12TH FLOOR  
SACRAMENTO, CA 95816  
R.00-02-003

MICHAEL H. REMY  
REMY, THOMAS AND MOOSE, LLP  
455 CAPITOL MALL STE. 210  
SACRAMENTO, CA 95814  
R.00-02-003

LOUISE RENNE  
CITY ATTORNEY  
CITY AND COUNTY OF SAN FRANCISCO  
1 DR. CARLTON B. GOODLETT PLACE  
SAN FRANCISCO, CA 94102-4682  
R.00-02-003

RUDOLPH REYES  
VERIZON CALIFORNIA INC.  
711 VAN NESS AVENUE, SUITE 300  
SAN FRANCISCO, CA 94102  
R.00-02-003

THEODORE ROBERTS  
SEMPRA ENERGY  
101 ASH STREET, HQ 13D  
SAN DIEGO, CA 92101-3017  
R.00-02-003

PATRICK ROSVALL  
ATTORNEY AT LAW  
COOPER, WHITE & COOPER ,L.L.P.  
201 CALIFORNIA ST., 17TH FLOOR  
SAN FRANCISCO, CA 94111  
R.00-02-003

DWIGHT E. SANDERS  
100 HOWE AVENUE, SUITE 100-SOUTH  
SACRAMENTO, CA 95825-8202  
R.00-02-003

DEBORAH R. SCOTT  
ASSOCIATE GENERAL COUNSEL  
CITIZENS COMMUNICATIONS  
PO BOX 340  
EL GROVE, CA 95759  
R.00-02-003

DANIEL SEAMANS  
CALIFORNIA PUBLIC UTILITIES  
COMMISSION  
505 VAN NESS AVE, 3-F  
SAN FRANCISCO, CA 94102  
R.00-02-003

EARL NICHOLAS SELBY  
ATTORNEY AT LAW  
LAW OFFICES OF EARL NICHOLAS SELBY  
418 FLORENCE STREET  
PALO ALTO, CA 94301-1705  
R.00-02-003

Aram Shumavon  
CALIF PUBLIC UTILITIES COMMISSION  
505 VAN NESS AVENUE  
ROOM 5306  
SAN FRANCISCO, CA 94102-3214  
R.00-02-003

MICHAEL SHAMES  
ATTORNEY AT LAW  
UTILITY CONSUMERS' ACTION NETWORK  
3100 FIFTH AVENUE, SUITE B  
SAN DIEGO, CA 92103  
R.00-02-003

MELISSA M. SMITH  
KELLEY DRYE & WARREN, LLP  
1200 19TH STREET, N.W. SUITE 500  
WASHINGTON, DC 20036  
R.00-02-003

ETHAN SPRAGUE  
PAC-WEST TELECOMM, INC.  
1776 W. MARCH LANE, SUITE 250  
STOCKTON, CA 95207  
R.00-02-003

**R.00-02-003**

Monday, July 10, 2006

JEREMY H. STERN  
COLE, RAYWID & BRAVEMAN, L.L.P.  
2381 ROSECRANS AVENUE  
EL SEGUNDO, CA 90245  
R.00-02-003

ALOA STEVENS  
DIRECTOR-STATE GOVERNMENT  
AFFAIRS  
CITIZENS COMMUNICATIONS  
4 TRIAD CENTER, SUITE 200  
SALT LAKE CITY, UT 84180  
R.00-02-003

GLENN STOVER  
ATTORNEY AT LAW  
STOVER LAW  
301 HOWARD STREET, SUITE 830  
SAN FRANCISCO, CA 94105  
R.00-02-003

ERIN R. SWANSIGER  
KELLEY DRYE & WARREN, LLP  
1200 19TH STREET, N.W., SUITE 500  
WASHINGTON, DC 20036  
R.00-02-003

ANITA TAFF-RICE  
ATTORNEY AT LAW  
CLEARLIX  
1547 PALOS VERDES MALL, NO. 298  
WALNUT CREEK, CA 94597  
R.00-02-003

MICHAEL J. THOMPSON  
ATTORNEY AT LAW  
WRIGHT & TALISMAN, PC  
1200 G STREET, N.W., STE 600  
WASHINGTON, DC 20005  
R.00-02-003

TREG TREMONT  
ATTORNEY AT LAW  
DAVIS WRIGHT TREMAINE, LLP  
ONE EMBARCADERO CENTER, SUITE 600  
SAN FRANCISCO, CA 94111-3834  
R.00-02-003

Jensen Uchida  
CALIF PUBLIC UTILITIES COMMISSION  
505 VAN NESS AVENUE  
AREA 4-A  
SAN FRANCISCO, CA 94102-3214  
R.00-02-003

PAUL VALLE-RIESTRA  
ASSISTANT CITY ATTORNEY  
CITY OF WALNUT CREEK  
PO BOX 8039  
WALNUT CREEK, CA 94596  
R.00-02-003

Ourania M. Vlahos  
CALIF PUBLIC UTILITIES COMMISSION  
505 VAN NESS AVENUE  
ROOM 5037  
SAN FRANCISCO, CA 94102-3214  
R.00-02-003

NATALIE D. WALES  
ATTORNEY AT LAW  
CALIFORNIA PUBLIC UTILITIES  
COMMISSION  
505 VAN NESS AVENUE  
SAN FRANCISCO, CA 94102  
R.00-02-003

CYNTHIA WALKER  
ICG TELECOM GROUP, INC.  
50 CALIFORNIA STREET, SUITE 2800  
SAN FRANCISCO, CA 94107-1902  
R.00-02-003

MARY E. WAND  
ATTORNEY AT LAW  
MORRISON & FOERSTER LLP  
425 MARKET STREET  
SAN FRANCISCO, CA 94105  
R.00-02-003

CHRISTOPHER J. WARNER  
ATTORNEY AT LAW  
PACIFIC GAS AND ELECTRIC COMPANY  
PO BOX 7442  
SAN FRANCISCO, CA 94120  
R.00-02-003

PATRICK WHITNELL  
ATTORNEY AT LAW  
MEYERS NAVE RIBACK SLVER & WILSON  
555 12 ST., SUITE 1500  
OAKLAND, CA 94607  
R.00-02-003

MICHAEL WIGMORE  
SWIDLER, BERLIN, SHEREFF FRIEDMAN,  
LLP  
3000 K STREET, N.W. SUITE 300  
WASHINGTON, DC 20007  
R.00-02-003

DAVID M. WILSON  
ATTORNEY AT LAW  
WILSON & BLOOMFIELD LLP  
1901 HARRISON STREET, SUITE 1630  
OAKLAND, CA 94612  
R.00-02-003

STEVEN D. ZIMMER  
EXECUTIVE VICE PRESIDENT  
NEWHALL LAND & FARMING COMPANY  
23823 VALENCIA BOULEVARD  
VALENCIA, CA 91355  
R.00-02-003